

## **REMARKS**

### **Summary of the Office Action**

Claims 1-3, 5-7, and 9-24 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,098,416 to Imonti.

Claims 4 and 25-27 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Imonti in view of U.S. Patent No. 4,366,816 to Bayard.

Claim 8 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Imonti in view of U.S. Patent No. 5,041,096 to Beuchat.

### **Summary of the Response to the Office Action**

Applicants amended claims 1, 6, 26, and 27, and added new claim 28. Accordingly, claims 1-28 are presently pending.

### **Interview Summary**

Pursuant to M.P.E.P. § 713.04, Applicants provide the following summary of the personal interview conducted on April 6, 2006. Applicants thank Examiner Hill and Examiner Stephens for the personal interview.

Applicants requested that a primary examiner attend the interview, as had been requested at the time the interview was scheduled, because Examiner Hill is not a primary examiner and does not possess authority herself to allow or reject the present application. Examiner Stephens graciously agreed to join the interview, although she had no prior involvement with the application.

Applicants noted the status of the application: it is currently under a second, non-final rejection. Applicants again demonstrated a sample of the aspiration device embodiment, including the valve, shown in the drawings. It was noted that the rejection alleges that the

adapter and syringe body of Imonti form the valve recited in Claim 1. As detailed further below, Applicants explained the adapter and syringe body of Imonti are not a valve as recited in Claim 1; that Imonti refers to a valve, but that the adapter and syringe body are not a valve. While Examiner Stephens was inclined to agree with Applicants, she noted that she was not responsible for examination of the present application.

Applicants stressed that they sought the interview because this examination is not making the progress normally achieved, increasing costs to Applicants. Applicants received a second, non-final Office Action alleging that the claims are anticipated by a reference (Imonti) that is, in fact, bears little similarity to the claims. Applicants stated a willingness to appeal the rejection to the Board of Patent Appeals, but fully expect that, after Applicants incurred significant costs and the delay of months, the rejection would be withdrawn before review by the Board of Appeals and Applicants would receive a third or fourth, non-final Office Action with no progress having been made. Thus, Applicants arranged the interview to request more efficient examination, a goal of the PTO. Applicants noted that they would file a written response to the rejection.

### **Claim Interpretations**

The wording of page 2 of the Office Action may be read to imply that the interpretation of “actuator” was limited to the description in the specification and/or drawings (page 2 of the specification and buttons 206 and conduit 283). In fact, in rejecting the claims based on Imonti, the Examiner does not appear to have limited “actuator” to the description in the specification or the structure shown in the drawings. Moreover, while the drawings and specification illustrate an exemplary embodiment of the claimed invention, the claims should not be limited to that embodiment. There should be not confusion in this respect.

Further, as would be understood in the art, the “fluid conduit” of the claimed medical vacuum aspiration device is intended to be descriptive and should not be understood as limited to convey gases and liquids to the exclusion of any tissue that may also be conveyed by aspiration.

**Amendment of the Claims**

Applicants have amended claims 1, 6, 26, and 27. Claim 1 is amended to refer to the suction path of the medical vacuum aspiration device. Claim 6 was amended for consistency with claim 1. Claims 26 and 27 were amended to better recite the material of the housing and conduit. None of these amendments are made in response to the rejection.

New independent claim 28 has been added. Similar to claims 1 and 15, claim 28 is directed to a medical vacuum aspiration device.

**The Rejections of the Claims**

Applicants traverse the rejections for at least the following reasons. Independent claims 1 and 15 stand rejected as being anticipated by U.S. Patent No. 5,098,416 to Imonti. However, Imonti is clearly different. Imonti discloses a syringe adapter assembly for withdrawing and collecting body fluid. The syringe adapter connects between an aspiration source and a syringe body.

Claims 1 and 15 recite, among other things, a “valve.” Imonti mentions “a manually controlled valve,” but does not show the valve or describe the features of the valve recited in Claim 1 or Claim 15. By separately referring to a valve on one hand and an adapter and syringe body on the other, Imonti clearly distinguishes between these structures. In contrast, the Examiner attempts to re-cast the adapter and syringe body disclosed in Imonti in the role of a valve, and particularly the valve recited in Claim 1 and that recited in Claim 15. However, the adapter and syringe body are not a valve, as Imonti plainly recognizes.

In fact, Imonti's adapter assembly is nothing like the valve of claim 1. The Examiner's reading of the claim on the Imonti adapter assembly is clearly flawed. For example, the Examiner equates the syringe body 26 with the "removable fluid conduit" of claim 1, but alleges that the enlarged open end portion 28 of the syringe body is a "valve housing." Claim 1 recites a "valve housing having ... portions that define a cavity for removably holding at least a portion of the fluid conduit." The enlarged open end portion 28 is not a "valve housing" and does not include "a cavity for removably holding at least a portion of the fluid conduit." The open end portion 28 corresponds to an end portion of syringe body 26, not a "valve housing." Moreover, the Examiner wrongly asserts that the syringe chamber 16 (which she regards as the "cavity" of the "valve housing") removably holds a portion of the syringe body 26 (which she regards as the "removable fluid conduit"). The syringe chamber 16 is the inside of the syringe body 26. It cannot removably hold a portion of the syringe body 26.

Further, the Imonti adapter assembly does not include "an actuator." The Examiner alleges that vacuum seal 46 of Imonti is the claimed actuator. It is not. The vacuum seal 46 of Imonti does not "selectively compresses a portion of the fluid conduit to open and close a fluid path defined by the fluid conduit," as recited in Claim 1. The vacuum seal 46 is inside of the syringe body 26 and therefore is not "capable of compressing fluid conduit [i.e., syringe body] 16 [sic, 26] open and closing a fluid path," as the Examiner alleges. The seal 46 does not compress the chamber, but resides within the interior of syringe body 26 to seal the end.

Any one of the differences (and there are others) noted above is sufficient to distinguish Claim 1 from Imonti. The fact that multiple differences exist illustrates how different Imonti is from the structure recited in Claim 1. The rejection should be withdrawn.

Likewise, Imonti's adapter assembly differs from the valve recited in Claim 15. In particular, Claim 15 recites, among other things, a "valve including first and second housing portions ..., a releasable connector joining the first housing portion to the second housing portion such that the first housing portion and the second housing portion cooperate to define ... a cavity ...; a fluid conduit retained in the cavity ... including a flexible conduit portion; and at least one conduit clamp movably mounted on one of the housing portions and engagable with the flexible conduit to compress the conduit portion."

As above, the Examiner alleges that Imonti's adapter assembly (not the valve mentioned in Imonti) is the valve recited in Claim 15. Imonti's adapter assembly is not a valve, and the structure of Imonti's adapter assembly differs from the valve structure recited in Claim 15. Contrary to the Examiner's allegations, finger grip portions 30 of syringe body 26 are not a "first housing portion"; reduced open end portion 32 of syringe body 26 is not a "second housing portion"; central tubular member 40 of the adapter 10 is not "a releasable connector joining the first housing portion to the second housing portion"; and vacuum seal 46 is not "a conduit clamp movably mounted on one of the housing portions and engagable with the flexible conduit to compress the conduit portion."

As above, any one of the differences noted above is sufficient to distinguish Claim 15 from Imonti. The numerous differences reflect that Imonti's adapter assembly is unlike the structure recited in Claim 15. The rejection should be withdrawn.

Neither Bayard nor Beuchat make up for the deficiencies of Imonti. The rejections of Claims 1-27 are improper and should be withdrawn.

Furthermore, Applicants respectfully assert that dependent Claims 2-14 and 16-27 are allowable at least because of their dependence from independent Claims 1 and 15 and the reasons set forth above.

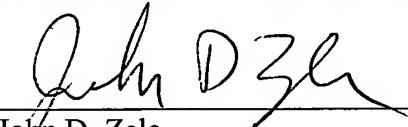
**Conclusion**

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and the timely allowance of all pending claims. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicants' undersigned representative at 202.739.5271 to expedite prosecution.

**EXCEPT** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.36(a)(3).

Respectfully submitted,

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Dated: April 24, 2006

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